

**Exhibit 6A**  
**June 26, 2014 Hearing Transcript**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846  
MICHIGAN, .  
. Detroit, Michigan  
Debtor. . June 26, 2014  
9:00 a.m.  
.

HEARING RE. (#5259) STATUS CONFERENCE ON PLAN  
CONFIRMATION PROCESS (RE. FIFTH AMENDED ORDER  
ESTABLISHING PROCEDURES, DEADLINES AND HEARING DATES  
RELATING TO THE DEBTOR'S PLAN OF ADJUSTMENT. STATUS  
HEARINGS REGARDING PLAN CONFIRMATION PROCESS; (#5285)  
CORRECTED MOTION TO QUASH SYNCORA'S SUBPOENA TO  
DEPOSE ATTORNEY GENERAL BILL SCHUETTE FILED BY  
INTERESTED PARTY BILL SCHUETTE; (#5250) MOTION OF THE  
CITY OF DETROIT FOR SITE VISIT BY COURT IN CONNECTION  
WITH THE HEARING ON CONFIRMATION OF THE CITY'S PLAN OF  
ADJUSTMENT FILED BY DEBTOR IN POSSESSION CITY OF  
DETROIT, MICHIGAN; (#5300) JOINT MOTION TO QUASH  
SUBPOENAS DUCES TECUM FILED BY INTERESTED PARTIES  
A. PAUL AND CAROL C. SCHAAP FOUNDATION, CHARLES  
STEWART MOTT FOUNDATION, COMMUNITY FOUNDATION FOR  
SOUTHEAST MICHIGAN, HUDSON-WEBBER FOUNDATION, MAX M  
AND MARJORIE S. FISHER FOUNDATION, MCGREGOR FUND,  
THE FORD FOUNDATION, THE FRED A. AND BARBARA M. ERB  
FAMILY FOUNDATION, W.K. KELLOGG FOUNDATION, WILLIAM  
DAVIDSON FOUNDATION; (#5478) MOTION OF THE GENERAL  
RETIREMENT SYSTEM OF THE CITY OF DETROIT TO  
DESIGNATE AND DETERMINE ADDITIONAL LEGAL ISSUE  
REGARDING METHODOLOGY FOR ASF RECOUPMENT FROM  
RETIREEES FILED BY CREDITOR GENERAL RETIREMENT  
SYSTEM OF THE CITY OF DETROIT; (#5442) MOTION FOR  
PROTECTIVE ORDER CITY OF DETROIT'S MOTION FOR  
ENTRY OF A PROTECTIVE ORDER STRIKING SYNCORA'S  
DEMAND IN ITS RULE 30(b)(6) DEPOSITION NOTICE  
FOR THE PERSONAL FINANCIAL INFORMATION OF ALL CITY  
RETIREEES FILED BY DEBTOR IN POSSESSION CITY OF  
DETROIT, MICHIGAN; (#5436) MOTION TO COMPEL FULL AND  
FAIR RESPONSES TO SYNCORA'S INTERROGATORIES FILED BY  
INTERESTED PARTIES SYNCORA CAPITAL ASSURANCE, INC.,  
SYNCORA GUARANTEE, INC.  
BEFORE THE HONORABLE STEVEN W. RHODES  
UNITED STATES BANKRUPTCY COURT JUDGE

1 me about the foundations' objections to the subpoenas, I said  
2 to him, "I can imagine how your clients feel," and he  
3 actually used the phrase that I used. I said, "I'm sure they  
4 feel like no good deed goes unpunished," that they're coming  
5 to the bankruptcy and giving money to the city's retirees and  
6 trying to do something helpful, and I can understand that  
7 from their perspective, but I laid out for him my perspective  
8 and why we had issued the subpoenas, and I laid out the  
9 substantive issues for him about what it is that the  
10 foundations have become involved in. And I'd like to frame  
11 that, if I could, and then lay out the key points that go  
12 towards the motion. But what we're talking about here in the  
13 grand bargain is something that the city itself has described  
14 as the cornerstone of the plan, so you pull out the  
15 cornerstone, the foundation falls. That's how important the  
16 transaction they've involved themselves is. The assets in  
17 question that are being conveyed are multi-billion dollar  
18 assets that are going away from the city. It's currently in  
19 the city. The city has title to the assets. After the  
20 transaction, they will be in public trust forever. And it  
21 is -- the foundation contribution piece for the assets is --  
22 dials directly into the unfair discrimination argument  
23 because the city has now said that those are not city funds  
24 and should not be considered when you do the unfair  
25 discrimination analysis, and it has a dramatic impact on the

1 calculation of what the recoveries are under the plan if you  
2 include or exclude that. So I explained that to  
3 Mr. Bernstein, and we explained that in our motion for the  
4 purpose of showing that the foundations are in -- have  
5 involved themselves in the centerpiece of the most important  
6 part of the plan and that our discovery is aimed at exploring  
7 that for multiple reasons that I will go into but, in  
8 particular, for testing the assertion that these are, quote,  
9 unquote, not city funds, which is the first argument that  
10 they make in connection with the unfair discrimination point.  
11 So I will respectfully disagree with counsel here today that  
12 says we're trying to harass people, we're trying to  
13 intimidate people. It's not fair, and it's not a description  
14 of how I operate in this case. I will get to the issue of  
15 burden in a moment, if I could, but I think with respect to  
16 the issue of relevance, these are -- this is relevant  
17 information that we believe that the foundations possess.  
18 I'll speak to burden and then the privilege, if I could, at  
19 the end, your Honor. Whether the foundations would have  
20 contributed the money if the city had not agreed to transfer  
21 its art collection, that's relevant state of mind evidence  
22 that they possess. Whether the foundations were the ones  
23 that imposed on the city the requirement that all monies go  
24 to the retiree classes or whether the city was the one that  
25 proposed that to the foundations. The ability of the

1 foundations to pay their respective amounts is an important  
2 question that we want to explore. The sources of the funds  
3 that they are contributing to the grand bargain is also an  
4 important one that we want to explore for reasons I'll  
5 explain, the importance of the foundations of obtaining the  
6 exculpation they receive under the plan because the  
7 foundations actually do, I believe, under the plan receive an  
8 exculpation in connection with their contribution, so they  
9 actually are getting something from the plan. And then we  
10 have also sought information regarding the importance of the  
11 DIA to the Detroit community because that is something that  
12 has separately been raised by the city. Many of these  
13 foundations are ones that have contributed to the DIA in the  
14 past, and we are, thus, seeking to understand their view on  
15 the importance of the DIA to the community as an economic  
16 entity. That's a relevant issue to things the city has put  
17 at issue.

18           The two broad categories of information that we are  
19 seeking here can be roughly divided into, number one, what  
20 went into this deal and how it was structured. Could it have  
21 been structured differently in a way that allows either the  
22 art collection to be preserved as a city asset or,  
23 alternatively, monetized, or part of the art collection  
24 and/or whose idea was it that all of your money had to go to  
25 the retirees? You can imagine as a creditor who is on the

1 outside looking in that those are very important questions,  
2 and the city has already put these at issue because you'll  
3 remember in our pretrial conference before you where they  
4 described and laid out their arguments, they were saying  
5 things like, "It is the foundations that were requiring us to  
6 do this. We are -- you know, we're limited here. This is  
7 what they're insisting upon." And we want to test that  
8 assertion, so this goes to the fairness and equitableness of  
9 the grand bargain and the plan. It goes to the question of  
10 whether these are city funds or are not city funds, and it  
11 also goes to the business judgment exercised by the city with  
12 respect to the way it structured the grand bargain. There is  
13 no question in my mind that the subpoena seeks relevant and  
14 discoverable evidence relating to the cornerstone of the  
15 plan. There is no basis to find us as seeking to harass or  
16 intimidate these foundations.

17 I'd like to turn to the question of burden, your  
18 Honor, and end on the question of privilege because I think  
19 the privilege is going to be an important issue to resolve,  
20 but on the question of burden, one of the things I want to --  
21 I want to point out two things. Mr. Bernstein and I did not  
22 have an opportunity to speak meaningfully about -- it was  
23 never on the table that if we narrowed this request this way  
24 or if we narrowed this request this way or the sorts of horse  
25 trading that go into a recovery that they would then sit for

1 is, oh, look, it's only four -- it's only, you know, six  
2 times as much as you're getting, and so it doesn't trigger  
3 that heightened level of scrutiny. Now, I don't agree with  
4 their formulation of the legal test, which is why I'm  
5 portraying it this way, but the question --

6 THE COURT: Assume it's the heightened level of  
7 scrutiny, as you phrase it.

8 MR. HACKNEY: Yeah.

9 THE COURT: Still what's the relevance?

10 MR. HACKNEY: Well, the relevance is what -- number  
11 one, what goes into that calculation of who's getting what  
12 because argument 1-A under the city's brief --

13 THE COURT: Assume for a moment that the pensioners  
14 are getting 90-some percent and you're getting 10 percent.  
15 Assume that.

16 MR. HACKNEY: Yes.

17 THE COURT: And the heightened level, whatever that  
18 level is, of scrutiny is triggered. Still, what's the  
19 relevance?

20 MR. HACKNEY: Well, you've assumed away the  
21 relevance because of the way you set up the hypothetical.  
22 For example, if the city will stipulate that the funds by the  
23 foundations are city funds that are calculated in the unfair  
24 discrimination either because they're transferred on  
25 account -- they're contributed on account of the transfer of

1 a city asset --

2 THE COURT: And you've lost me already, and maybe  
3 the city has lost me. I don't know. But I would have  
4 assumed that the issue of unfair discrimination is based upon  
5 not where money comes from but where money goes to.

6 MR. HACKNEY: That is definitely how Syncora views  
7 the world.

8 THE COURT: All right.

9 MR. HACKNEY: But the city --

10 THE COURT: Let's view the world that way since  
11 you're the one at the lectern.

12 MR. HACKNEY: Yes. No. Well, remember, you were  
13 asking me relevance, and I'm describing the city's case. I'm  
14 trying to discover and defend their case.

15 THE COURT: Okay. So is this your concession that  
16 this has nothing to do with the issue of whether the  
17 discrimination is justified or not? It's only an issue of  
18 whether there is discrimination.

19 MR. HACKNEY: No. It goes to the amount --

20 THE COURT: And explain to me how it's relevant to  
21 the issue of whether the discrimination, whatever it is,  
22 however you characterize it, however the city characterizes  
23 it, is justified or not.

24 MR. HACKNEY: Okay. So there are two issues going  
25 on here that I think are relevant. The information from the

1 foundations is definitely relevant to the amount of  
2 discrimination that's going on, which is absolutely something  
3 that the city is attempting to litigate and is absolutely  
4 something that the city says is relevant to your application  
5 of the test. In fact, the city has, in my judgment, when  
6 they interpret the Markell test, they are basically waving  
7 the white flag on the Markell test, but they have absolutely  
8 said to you, "Oh, you know, the Markell test, that doesn't  
9 really apply until you get to about 85-5." Okay. That's the  
10 one instance where Mr. Markell proposed it. Now, ironically,  
11 if you include the foundation amounts in the calculation,  
12 guess what you find out? You find out pretty quickly that  
13 the recoveries are 95 to 100 versus 4 to 5 cents depending on  
14 how you think of it, so it is absolutely relevant to the  
15 amount of discrimination, which the city says is absolutely  
16 relevant. Now, it is also relevant to the application of the  
17 test putting aside the amount of discrimination. That's  
18 because the Aztec test has been summarized by courts in this  
19 district to say however you construe the fact -- the Aztec  
20 test, which I would describe as a slightly more amorphous  
21 four-factor test, but they say however you apply the four  
22 factors, you must show that the discrimination is necessary  
23 to confirming a plan. Now, you can see that the negotiations  
24 with the foundations and how they went down in terms of whose  
25 idea this all was is critical to whether the grand bargain,

1 saying that I have studied the DIA's collection and I know  
2 the rest of the information to be there, which is why I  
3 said -- because I can read their letter agreements with the  
4 DIA in terms of the scope of the subpoenas and the agreement  
5 on the production that was going to be made, which track a  
6 lot of these issues very closely -- I say the DIA, if anyone,  
7 is going to be the person or the entity with knowledge of  
8 these matters, so, no, we have never -- we have said to --  
9 I've said to Mr. Hackney a number of times the question as  
10 it's posed to me, which I was pleased to hear Mr. Hackney  
11 agreed because we've talked about this -- the question as  
12 originally designed was simply to elicit information about  
13 art so that experts could use it, identify all works of art  
14 worth more than a million dollars. The city does not know  
15 the answer to that. It has some information. It has  
16 provided it. But it does not know the answer to all pieces  
17 of art.

18           THE COURT: All right. I'm going to take this  
19 matter under advisement with the others. We'll take our  
20 lunch break now and reconvene at 1:15, please. I'll give you  
21 my decisions at that time, and then we'll continue with the  
22 two status conferences.

23           THE CLERK: All rise. Court is in recess.

24           (Recess at 12:17 p.m., until 1:15 p.m.)

25           THE CLERK: All rise. Court is in session. Please

1 be seated. Recalling Case Number 13-53846, City of Detroit,  
2 Michigan.

3 THE COURT: All right. It appears that everyone is  
4 present. Addressing first the attorney general's motion to  
5 quash the subpoena that was issued to him by Syncora, the  
6 Court concludes that this motion should be granted. The  
7 Court concludes that the attorney general's opinion that is  
8 the subject of that subpoena is for all functional purposes  
9 the equivalent of a brief, and it will be given weight by the  
10 Court only to the extent that the facts on which it relies  
11 are established in the evidence and the law on which it  
12 relies is persuasive.

13 In weighing any settlements in the case, including  
14 what's been called the grand bargain here, the Court will  
15 weigh the merits of the opposing facts and law and not take  
16 into account the position or authority of the people who may  
17 have taken positions on one side or the other of the issues.  
18 So in these circumstances, there is no basis for questioning  
19 the attorney general regarding his legal opinion, so that  
20 motion is granted.

21 Addressing next the foundations' motion to quash the  
22 subpoenas that were issued to them, the Court again concludes  
23 that this motion should be granted. The Court concludes that  
24 none of the 30(b)(6) subjects and none of the documents that  
25 are sought from the foundations are relevant to or even

1 arguably relevant to the issues of whether the plan is  
2 discriminatory or whether it is unfairly discriminatory, the  
3 best interest of creditors or even the extent to which the  
4 so-called grand bargain settlement protects the art of the  
5 city. Accordingly, that motion is granted.

6 Now, having said that, it was mentioned during  
7 argument that Syncora is interested in information relating  
8 to the foundations' ability to pay. That is a relevant  
9 subject on which the Court would allow limited discovery. It  
10 is not, however, as far as the Court could determine, a part  
11 of the discovery that was, in fact, served. The Court hopes  
12 that Syncora's counsel and counsel for the several  
13 foundations can work out a streamlined and efficient way for  
14 Syncora to get the information it needs to evaluate this  
15 issue of their ability to pay.

16 In the motion to quash the foundations' requested  
17 costs, the Court will ask counsel for those foundations to  
18 file a separate motion for costs if they wish to pursue that.

19 Turning now to the motion for a site visit, the  
20 Court is inclined to exercise its discretion to grant that  
21 motion and to go on a site inspection as requested. The  
22 Court believes it is likely that the value of such an  
23 inspection would be outweighed by the effort it would take to  
24 organize and execute the tour, so it will take, however,  
25 further discussion and planning here in the meantime, so,

1 while I'm not prepared yet to enter an order granting the  
2 motion, I do think it is appropriate to move the discussions  
3 forward. And so to that end, I am going to ask the creditors  
4 who are objecting to the plan at this point to nominate one  
5 or two of them to attend a meeting with one or two  
6 representatives of the city, me, and the Marshals Office to  
7 discuss and conclude the details necessary to effectuate this  
8 site inspection. And if the creditors are unable to agree  
9 upon one or two representatives for that purpose, the Court  
10 will identify someone for you. So I think that's as much on  
11 that motion as we can do at this point in time.

12           Turning then to the city's motion for a protective  
13 order regarding the retirees' personal information, the Court  
14 did state on the record earlier that it would find that  
15 Syncora had withdrawn this request based on the Court's  
16 ruling that the retirees' hardships was not at all relevant  
17 to the issue of either unfair discrimination or fair and  
18 equitable. And just to elaborate on that a bit, as the Court  
19 stated earlier, it is unaware of any case law interpreting  
20 Section 1129 that holds that it is appropriate to consider  
21 the relative hardships of creditors in evaluating the issues  
22 under that section of the Bankruptcy Code. And, indeed, as  
23 the Court suggested in the hearing, if that door were opened  
24 here and that subject were relevant here, it would literally  
25 open up every single retiree as well as Syncora itself to